

**DISTRIBUTION SYSTEM OPERATOR
FIER REGIONAL DIRECTORATE**

No. _____ Prot.

Fier, on ____/____/ 2026

PROCESVERBAL - Contract type - Services

**ON THE ARGUMENTATION OF THE IMPLEMENTATION OF THE PROCEDURE IN A CONTRACT
(YOU HAVE LOT)**

OBJECT OF THE PROCEDURE: "Security service for the physical protection of buildings, assets, people and property of OSSH sh.a/ Regional Directorates Fier and Vlora & FSHU sh.a Fier and Vlora Region"

RELEVANT CODE IN THE COMMON PROCUREMENT VOCABULARY (CPV):
79711000-1, 79713000-5

LIMIT FUND VALUE: 331,121,746.8 (three hundred thirty-one million one hundred and one thousand seven hundred and forty-six point eight) **Lekë excluding VAT**

Based on Article 39, point 1, of Law No. 162/2020 "On Public Procurement", Article 42, points 1 and 2 of the Decision of the Council of Ministers, of the Council of Ministers No. 285, dated 19.05.2021 "On the approval of public procurement rules", the contracting authority/entity Sh.a Ujesjelles Kanalizime Elbasan, has drafted the minutes to argue for not dividing the procedure into lots, with the following content:

Referring to the requirements set out in Annexes 6, 7, and 7, the service subject to this procurement procedure will be performed in facilities owned and administered by the Regional Directorate of OSSH Sh.a. in Fier and Vlorë, as well as FSHU Sh.a. Fier, Ballsh, Patos Roskovec, Vlorë, Orikum and Himarë, with service employees in the facilities where the service will be performed with service employees and on-site signaling (alarm) and surveillance (camera) systems.

Dividing into lots would complicate contract management and the distribution of responsibilities.

This would bring increased costs for the CA as well as risks and difficulties for the contracting authority during the implementation of the contract. The control to verify whether the service will be provided according to the technical specifications would be further complicated. The division into lots would complicate the management of contracts and the distribution of responsibilities, complicating the successful implementation of the contract.

Referring to Law No. 162, dated 23.12.2020 "On Public Procurement", Article 2 expressly provides that:

"The purpose of this law is: To increase efficiency

- and effectiveness in public procurement procedures;
 - To ensure good use of public funds and reduce procedural costs;
 - To promote the participation of economic operators in public procurement procedures;
 - To promote competition between economic operators;
 - To ensure equal and non-discriminatory treatment for all economic operators participating in public procurement procedures;
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- To ensure integrity, public trust and transparency in public procurement procedures.

In Chapter V, Article 42, points 1 and 2 of the Decision of the Council of Ministers No. 285, dated 19.05.2021 "On the approval of the Public Procurement Rules", it is expressly provided: 1.

The contracting authority/entity shall divide a contract into lots whenever possible. In any case, the size and purpose of these lots must be clearly defined. 2.

The contracting authority, in procurement procedures above the upper monetary threshold, if it decides to carry out the procurement procedure without dividing it into lots, must provide a statement of the main reasons for this decision, which shall become part of the tender dossier. This obligation does not apply in the case of sectoral contracts.

Referring to Law No. 162, dated 23.12.2020 "On Public Procurement", Article 14, it is expressly provided that: 1.

Candidates or bidders may be natural or legal persons.

2. Groups of economic operators may submit tenders or present themselves as a single candidate in accordance with the provisions of the public procurement rules. The contracting authority or entity shall not require a specific legal form from the association of companies for the purpose of submitting a tender or a request to participate.

Contracting authorities or entities may require groups of economic operators to take a specific legal form, after they have been awarded the contract, if deemed necessary for the performance of the contract. In any case, this condition must be made known to the economic operators in the tender documents for the satisfactory execution of the contract.

3. The rules on how to meet the criteria by groups of economic operators in a procurement procedure are set out in the public procurement rules.

In the Council of Ministers No. 285, dated 19.05.2021 "On the approval of the Public Procurement Rules", Chapter XI, Article 88, it is provided: 1.

The tender may be submitted by a consortium of economic operators, as defined in points 2 and 3 of Article 14 of the LPP, where one of them represents the others during the procedure and, in case of selection, also during the implementation of the contract. The tender must specify the part of the service, work or supply that each of the members of this consortium will perform through a cooperation contract drawn up between the parties.

2. *The members of the economic operators' association shall designate in the cooperation contract between them their representative for the submission of the offer. This cooperation contract shall be submitted together with the qualifications and the economic offer, which shall be signed by the representative. The representative shall also provide the offer security, specifying the participation in the economic operators' association.*

3. *Each member of this consortium must meet the requirements set out in Article 76 of the LPP and those set out in the tender documents. The economic, financial, professional and technical qualification requirements must be met by the entire consortium, in accordance with the percentage and/or nature of participation in the work, service or supply, set out in the agreement.*

When the offer is submitted by a consortium of operators, the condition set out in letter "a", point 5, article 39, of these rules, is fulfilled by the member who has the highest percentage.

large participation in the consortium. The other members of the consortium will submit similar contracts, in proportion to their percentage of participation in the consortium. In the case where economic operators, members of a consortium, have the same percentage of participation in the consortium, they decide by agreement in the cooperation contract which of them will fulfill this condition.

In this case, the division of the procurement procedure into lots would complicate the management of contracts and the distribution of responsibilities, complicating the successful implementation of the contract, while in essence the service is of the same nature. Under these conditions, we judge that the implementation of the procedure in a contract not divided into lots is a fair action and in accordance with the spirit of the aforementioned legislation. We reach this conclusion also referring to the specific legislation, specifically Law 75/2014 "On private physical security services" and its implementing by-laws, which specify that economic operators licensed to provide this service have the right to exercise this activity throughout the territory of the Republic of Albania.

Furthermore, the legislation with the recent amendments has removed the need for a notarial contract but only the presentation of a cooperation contract between economic operators, who exercise their activity in different regions. Each of the members of this association must meet the requirements provided for in Article 76 of the LPP, and those specified in the tender documents. The requirements for qualification: economic, financial, professional and technical, must be met by the entire association, in accordance with the percentage and/or nature of participation in the work, service or supply, specified in the agreement.

Referring to the above, public procurement legislation recognizes the right of companies to join forces to fulfill a procurement contract, in conditions where this contract cannot be performed by a single economic operator.

Also, Article 84 of the LPP and Article 90 of the Council of Ministers No. 285, dated 21.05.2021, provide that Economic Operators, for the purpose of qualification in a procurement procedure, may rely on the economic and financial capacities, technical or professional skills of other entities.

Considering the nature, specifics and size of this service, the way in which the OSSH and FSHU structures in Fier, Patos, Ballsh, Roskovec, Vlore, Orikum and Himare function that the implementation of the contract will not be managed by separate and specialized structures would constitute an added cost for the establishment of other structures, which would make it impossible to provide this service, in addition to the costs that would be added to our institution by dividing it into lots.

We decided not to divide it into lots because we think that if one operator wins the entire contract, based on the principle of economies of scale, he will be able to provide a lower economic offer and we will be able to save more public revenue.

For problems that may eventually arise during the implementation of the contract, the CA would have to resolve disputes with two or more operators and this could make the implementation of the contract difficult.

PROCUREMENT UNIT
